

**BRIGHAM CITY PLANNING COMMISSION MEETING  
TUESDAY, MAY 15, 2007 – 6:30 PM  
BRIGHAM CITY COUNCIL CHAMBERS**

PRESENT:	Kevin Lane	Chairman
	Reese Nielsen	Vice-Chairman
	Miles Brown	Commissioner
	Joan Peterson	Commissioner
	Barbara Poelman	Commissioner
CITY STAFF:	Mark Teuscher	City Planner
	Eliza McGaha	Administrative Secretary
EXCUSED:	Steve Hill	City Council Liaison
	David Hipp	Commissioner
	Bill McGaha	Commissioner

**AGENDA**

WORK SESSION – AGENDA REVIEW

REGULAR MEETING

PLEDGE OF ALLEGIANCE

APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES

**APPLICATION #2918 / PUBLIC HEARING - CONTINUED / TO RECEIVE INPUT RELEVANT TO CANYON COVE PLANNED UNIT DEVELOPMENT / 838 WEST 1075 SOUTH / DAVID M. FAERBER**

**APPLICATION #2921 / CONDITIONAL USE PERMIT / 253 NORTH 600 WEST / WILLIAM FISHER**

**APPLICATION #2865 / KOTTER CANYON SUBDIVISION, PRELIMINARY PLAT / 1400 NORTH MAIN / KOTTER CANYON ESTATES LLC**

**APPLICATION #2895 / AMENDMENT OF GEORGIA ESTATES SUBDIVISION, LOTS 2 & 3 / 800 WEST 1075 SOUTH / DAVID M. FAERBER**

**APPLICATION #2882 / UPDATE AND REWRITE OF CHAPTER 29 ZONING ORDINANCE / BRIGHAM CITY CORPORATION**

**APPLICATION #2651 / DESIGN GUIDELINES FOR 1100 SOUTH / BRIGHAM CITY CORPORATION**

**APPLICATION #2924 / DESIGN GUIDELINES FOR WEST FOREST STREET / BRIGHAM CITY CORPORATION**

**APPLICATION #2925 / DESIGN GUIDELINES FOR HISTORICAL DOWNTOWN/ BRIGHAM CITY CORPORATION**

PUBLIC INPUT:

DISCUSSION:

**\*NOTE: Due to a broken microphone, there is static interference with the recording and the comments from Commissioners Poelman, Brown and Peterson are virtually inaudible.**

**REGULAR MEETING**

Chairman Lane opened the regular meeting at 6:30 p.m. and led the Pledge of Allegiance.

APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES  
On line 296 of the February 06, 2007 meeting minutes (is) should be changed to (it).

**MOTION:** A motion was made by Commissioner Peterson to approve the February 06, 2007 work session and regular meeting minutes as amended. The motion was seconded by Commissioner Brown and passed unanimously.

**MOTION:** A motion was made by Commissioner Brown to approve the April 03, 2005 work session minutes and regular meeting minutes. The motion was seconded by Commissioner Peterson and passed unanimously.

**MOTION:** A motion was made by Commissioner Poelman to continue the approval of the March 20, 2007 work session and regular meeting minutes. The motion was seconded by Commissioner Brown and passed unanimously.

**MOTION:** A motion was made by Commissioner Poelman to approve the May 01, 2007 work session minutes. The motion was seconded by Commissioner Peterson and passed unanimously.

**APPLICATION #2918 / PUBLIC HEARING - CONTINUED / TO RECEIVE INPUT RELEVANT TO CANYON COVE PLANNED UNIT DEVELOPMENT / 838 WEST 1075 SOUTH / DAVID M. FAERBER**

The developer met with Silver Pointe and they have resolved their issues. There will be no hammerhead; instead there will be a crash gate. The public hearing is still officially open.

There was no public comment.

**MOTION:** A motion was made by Commissioner Poelman to close the public hearing for application #2918. The motion was seconded by Commissioner Nielsen and passed unanimously.

Dave Faerber and Seth Faerber came forward. Mr. Faerber stated that he had given a brief presentation on the project previously. He restated his proposal and showed a picture of a building that was similar to the buildings he is planning to build. There will be a total of 60-units with twelve units in each building; six on each side with a breezeway through the middle so there will be individual accesses off the common breezeway down the middle. The exterior of the building will have rock and stucco and will not use aluminum siding. The 36 two-bedroom units will be just over 1,100 square feet with two bathrooms. The 24 three-bedroom units will have 1,300 plus square feet and two bathrooms including a patio off the front just off the kitchen and dining area and also a patio on the side coming off the master bedroom. There will be a club house with a common open area that can be rented for parties; there will also be an exercise area with equipment. There will be a play area for children and a basketball court. There will also be enclosed garages that will be rented out to the residents within the facility. Landscaping is upgraded and they will try to heavily landscape against the Flying J plaza and 1100 South so there will not be as much impact, visually or audibly, as to shield the development. At this point, the plan is to rent the units. Mr. Faerber stated that he is not sure the condo market is strong enough in the Brigham area to be able to sell stacked condos. He does think the market will come here and, at that time, the units will be converted to individual ownership. At that point, they will need to revisit the Planning Commission to get approval for that change. Mr. Faerber stated that Silver Pointe will release the easement. The agreement has been signed.

**MOTION:** A motion was made by Commissioner Poelman to approve application #2918 with the stipulation that it must comply with the Staff evaluation and must comply with Chapter 29.07 Planned Unit Development and the approval is subject to recording Amendment No. 1 Georgia Estates Subdivision; based on the findings of fact that the applicant will comply with Staff evaluation; the density increase is approved where it has been shown there is an exceptional quality of development that is substantially above average; three story buildings are approved where it has been shown there is an exceptional quality of development that is substantially above average; north garages are approved on overhead utility easement if compliance with Chapter 29.03.080.B.2 is obtained; east covered parking structure is allowed at a 17.26 ft. setback where it has been shown there is an exceptional quality of development that is substantially above average; parking may be allowed within the 20-foot required setback from street right-of-way where it has been shown there is an exceptional quality of development that is substantially above average; such use will not under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing in the vicinity or injurious to property or improvements in the vicinity and such use is in compliance with the Brigham City General Plan. The motion was seconded by Commissioner Peterson and passed unanimously.

**APPLICATION #2921 / CONDITIONAL USE PERMIT / 253 NORTH 600 WEST / WILLIAM FISHER**

This is for an accessory structure that is over 2,000 square feet. The Ordinance will allow for a structure over 2,000 square feet as a conditional use. Commissioner Nielsen suggested stipulating that the building be used for personal use only with no business use allowed.

William Fisher came forward. Mr. Fisher stated that one neighbor would be affected by the garage. He uses a truck and a trailer for his business which will not be housed in the garage; it is parked in the driveway. Mr. Fisher stated that his neighbors store things on his property because they do not have as much room as he does.

**MOTION:** A motion was made by Commissioner Nielsen to approve application #2921 with the stipulation that it comply with Chapter 29.06 Conditional Uses; comply with Staff comments and with the stipulation that it be used for personal use only, no business uses allowed for the building; based on the findings of fact that the site plan and building elevation for an accessory structure and an existing accessory structure have a combined area larger than 2,000 square feet but due to lot size being significantly greater than the minimum required, which in this case is 8,000 square feet/R-1-8, this application is considered by the Planning Commission to be acceptable; that such use will not under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity and that such use is in compliance with the General Plan. The motion was seconded by Commissioner Brown and passed unanimously.

**APPLICATION #2865 / KOTTER CANYON SUBDIVISION, PRELIMINARY PLAT / 1400 NORTH MAIN / KOTTER CANYON ESTATES LLC**

There are some ongoing issues that Staff has been working with the applicant to resolve including a development agreement and a Geotechnical report has been done. Signing of the development agreement would be subject to City Council approval. City Council has approved the use of the impact fees for the improvements on 1500 North for sewer and storm water. This will eventually eliminate a number of lift stations.

Greg Hansen, Hansen & Associates; Kevin Parkinson and Royce Richards, Kotter Canyon, came forward. Mr. Hansen stated that they had gone through all of the Staff comments and addressed each one of them. He stated that they do not have approval from Utah Department of Transportation (UDOT) as of yet and UDOT is taking a great deal of time in getting projects approved. In regards to the geological hazard, they have run the calculations for storm runoff coming out of the canyon. They will take up the details with the City Engineer. The amount of water that is coming out of the canyon, that the geologist had fears of potential flood damage to the development from a 200-year storm, is not a great deal of water. The way they plan on addressing this issue is through part of the trail system that will go above the development. The trail is a berm and on the uphill side of the trail is a channel; this channel is what will intercept any flow that may come down. It would not be practical to put a debris basin up there because of the slope. In looking at the land, there is really not any evidence of a great deal of debris coming down out of this canyon. The alluvial fan here is very pervious and there is not a tremendous amount of water that comes down off the project. Western Geologic has been hired to do a study to determine what, additionally, needs to be done to the design of the trail system to work as a channel for potential flooding or debris, if anything. The wetland consultants are still doing their study. Those are the items that have not been submitted to the Staff, as they are still in progress. The rest of the items are all technical and will be worked out with the City Engineer. There cannot be an engineered design for everything Mother Nature throws at us but the set criteria can certainly be met. There is a storm drainage system that goes throughout the development that picks up all the water and takes it out to the highway.

Mr. Teuscher stated that it will be required to separate the storm water from the irrigation water so they won't mix. There is some problem with the storm water mixing with the irrigation water, at this time. The City is requesting the developer to run a storm water line down 1500 North.

The two existing houses in the middle of the property will be done as a separate subdivision which will be independent of Kotter Canyon.

The development agreement requires the developer to put up the cash for the improvements. The development agreement is not yet approved it is subject to making a recommendation. (The discussion between Commissioner Poelman and Mr. Teuscher is inaudible). The design submitted was reviewed by the Engineering Staff and the Street Department and determined to be acceptable with the development agreement for those improvements when they become available to the City. That way it does not become a burden on the existing residents. The price of the land available for the road on 1500 North was discussed (mostly inaudible). The applicants commented that the price of land in Salt Lake City could not fairly or accurately be compared to the land in Brigham City. The development is costly for all the improvements that are being made to the land in the process of developing.

Greg Hansen commented that he did not think it necessary to go through all of the technical issues with the Planning Commission. He also said they have addressed every item listed in the Staff comments and they don't have any issues with them.

Mr. Teuscher stated that most of the technical issues have been resolved. They will have to come up with a final design that the City Engineer will have to review. There may be some changes to the overall design based upon what technical issues come up and will be handled at the final plat and will not move forward to City Council until the Commission approves the final plat.

Mr. Hansen said they are asking to waive the sidewalk on the north side of the street, at this time, as it seems more appropriate to put it in when the developer to the north develops that land. On the west part of 1500 North down toward the highway to the east there will be a 5 to 6-foot pad/park strip on the north side of the curb and gutter. If Bliss Law is willing, the developer will put the sidewalk in. The field to the north is substantially lower so a 10-foot pad will need to be installed behind the curb and gutter. The power poles will be in the park strip.

Commissioner Nielsen commented that a concern is there is no safe place for kids to walk down in that area. It is not as safe as it could be. Mr. Hansen said that before the final submittal to the Planning Commission they could sit down with Mr. Law again and see if they can work out some kind of agreement.

Bliss Law, adjacent property owner, came forward. The fence line is the division between the county and city property. He stated that he is not opposed to the subdivision but stated earlier that if they are going to put it in, it should be done right. He also commented that he is concerned about his property getting flooded by a big storm and the proposed storm system may not be adequate. Mr. Law said he hopes that they will design a system that will deflect flooding from his property. He stated that he is not opposed to the developer moving his fence enough to put in a sidewalk but they would need to put fill in and taper it down to the pasture to prevent the sidewalk from sloughing off and then relocate the fence at the bottom of the fill area. He stated that he felt the City had acquiesced to the developer and knows of no attempts of negotiation between the developer and Mr. Damon. He also stated a concern about the City exercising eminent domain, at some time in the future, if the road is not fully completed at the onset of the project. Completing the road right, the first time, would eliminate any future safety liabilities and higher costs to putting it in.

Paul Damon, representing Fife Equipment and Investment Co., came forward. Mr. Damon stated that he shares some of the same concerns that Mr. Law had already mentioned. Mr. Damon said his main concern, as an adjacent land owner, is the 1500 North road being done properly and that there are still some dangerous conditions with it. He stated that he has not been in much negotiation with the developer and said they had basically refused his offer. Mr. Damon stated that he had not had a realtor look at his property but discussed it with his attorney and came up with an appraisal value based on the size of the property, which is about 1/3-acre, and the trees on the property. He said he felt the Planning Commission should wait for the Utah Department of Transportation (UDOT) decision before making a recommendation on this application. He stated he would like to review the proposal that was sent to UDOT and also the contact information of the people the developer is dealing with. Mr. Teuscher gave Mr. Damon that information. Mr. Damon stated that he took the developers to breakfast about two months ago. At that time, he laid out the situation to them and explained where he was at. He said the developer had part of a private meeting with the City and the Mayor. Mr. Damon stated that they were asked not to be at that meeting and they showed up anyway. There was a letter presented at that meeting and he did receive a copy of that letter. Chairman Lane commented that this project will be an improvement to all the property in that area; a street with curb, gutter and sidewalk. Mr. Damon commented that there are some people that do not want it improved and also said he is not, personally, against the development but was representing different views.

Jay Kotter came forward. Mr. Kotter stated that he is 79-years-old and was born and raised on the property that this proposed development is on. There has only been one time in his life, to his knowledge, that water has come down out of Kotter Canyon and that was in the spring of 1951. He wanted to testify that if water came down out of that canyon it would all run onto Mr. Bliss Law's property and would not go onto the Kotter Estate at all.

**MOTION:** A motion was made by Commissioner Nielsen to continue application #2865 to the June 05, 2007 meeting to give the Commissioners a chance to read the information that was submitted on this day. The motion was seconded by Commissioner Poelman and passed unanimously.

**APPLICATION #2895 / AMENDMENT OF GEORGIA ESTATES SUBDIVISION, LOTS 2 & 3 / 800 WEST 1075 SOUTH / DAVID M. FAERBER**

This application is associated with Georgia Estates Amendment number 1. On the PUD approval, it was originally recommended to combine the two parcels into one but there is an issue of cross-easements so the new plat will show parcels reflecting the footprint of the buildings. The building footprints will become the parcels; the rest will be easement areas and limited easement areas. The limited easement areas will be covered parking stalls. The rest will become one big public utility easement with the exception of the club house which will be a limited easement.

**MOTION:** A motion was made by Commissioner Poelman to forward to the City Council with the recommendation to approve application #2895 based on the stipulations that it must comply with Utah Code 10-9a-608; must comply with Chapter 25 Subdivision Ordinance; must comply with Staff comments and based on the findings of fact that the applicant shall comply with Utah Code 10-9a-608 and Brigham City Code Chapter 25 Subdivision Ordinance and that such use will not under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity and that such use is in compliance with the General Plan. The motion was seconded by Commissioner Peterson and passed unanimously.

**APPLICATION #2882 / UPDATE AND REWRITE OF CHAPTER 29 ZONING ORDINANCE / BRIGHAM CITY CORPORATION**

Before the Commission tonight are Chapters 1 – 9 and Chapter 18 of the new Code. The old Code will be reconfigured to conform to the new outline. There will be an Administrative section, Zone section, Overlay section and a Specialties section. These sections will reconfigure the current Zoning Code into the format of the new Zoning Code. The Airport Overlay Zone and the Parking Standards have already been amended and will not be changed. It is recommended that Title 18 be deleted. Title 18 is a separate Title in the Code that deals with planning; all of those items will be moved into Section 29.04 and some of the other specific sections. Section 29.09 is a table of scheduled uses which has added additional uses and deleted some uses but is basically still the same list of uses that is currently in the Code. As the zones are rewritten, each individual use will be looked at by zone and then it will be determined if each use is still wanted in a particular zone. It will be put into a table format, Schedule of Uses, which will make looking up individual uses for each zone easy. The Uses section and Schedule of Uses are two different categories.

**MOTION:** A motion was made by Commissioner Brown to forward to the City Council with recommendation for approval application #2882 Chapters 1 through 9 and Chapter 18 of the Zoning Ordinance with the following stipulations (recording is inaudible at this point) subject to the findings of fact that the proposed changes are in line with and will not under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity and the proposed change be in compliance with the (inaudible). The motion was seconded by Commissioner Poelman.

**DISCUSSION:** Commissioner Nielsen commented that when the General Plan was redone there was reference made to a different type of zoning with respect to density as opposed to tradition and he asked where that was going to get put into the Zoning Ordinance and if the table will have to be rewritten when the zones are redone. Mr. Teuscher replied that the zone sections from 29.10 to 29.17 will be the sections that will be rewritten to deal with density and the table will have to be amended. The Administrative sections will put things in line with SB-60 so we will be in line with noticing, public hearings, ect.

The motion passed unanimously.

**APPLICATIONS #2651, #2924, #2925 / DESIGN GUIDELINES FOR 1100 SOUTH, WEST FOREST STREET & HISTORICAL DOWNTOWN / BRIGHAM CITY CORPORATION**

The consultants Jane Mostra, Architectural Nexus, and Terrall Budge, Design Workshop, made a presentation to explain how the guidelines are used, how they will fit into the Zoning Code and how they will be applied and how they envision the guidelines being used by the Planning Commission. The guidelines build on and guide the master plan process. They are working with both Brigham City and Perry on the 1100 South guidelines, as that is a shared corridor to both jurisdictions. These guidelines will also help people looking to develop in these areas to know what is expected and what the standards of quality are.

There are three parts to each design guideline. The first part is an intent statement which is meant to describe the rules on that particular guideline. It is almost impossible to anticipate every circumstance that will come up but the intent statement will define the goals of a guideline. The second part is the standard which provides the City direction. These are the requirements that the City will enforce. The third part is the guidelines which provide further considerations; they are not mandatory but they help to guide the design direction. The general table of contents is the same between all three guidelines.

Design guidelines are adopted as the guideline for those areas by the City Council. In some areas they are adopted as part of the General Plan but the General Plan in Utah is an advisory document not a binding document and the consultant advised to not use it in that way.

The consultants are in the process of incorporating the Staff comments into the guidelines. There will be a type of public hearing for input and a final draft will be distributed for comment and then the final documents brought back to the Planning Commission for approval. Perry will also have to approve the guidelines for 1100 South.

**MOTION:** A motion was made by Commissioner Nielsen to continue application #2651 to the June 5, 2007 meeting. The motion was seconded by Commissioner Peterson and passed unanimously.

**MOTION:** A motion was made by Commissioner Nielsen to continue application #2924 to the June 5, 2007 meeting. The motion was seconded by Commissioner Brown and passed unanimously.

**MOTION:** A motion was made by Commissioner Nielsen to continue application #2925 to the June 5, 2007 meeting. The motion was seconded by Commissioner Peterson and passed unanimously.

**PUBLIC INPUT:**

There was no public input.

**DISCUSSION:**

There was discussion regarding the land availability for the 1500 North road in Kotter Canyon and if there was a way to help facilitate negotiations between the land owner and the developer and comment was made that those negotiations were beyond the jurisdiction of the Planning Commission. Opinions varied for and against the safety, importance, time of development and the development agreement regarding the 1500 North road. The decision can not be based on public ~~elater~~ clamor. It has to be determined if the application meets the Ordinance or not. It was mentioned that it wouldn't really matter what the Commission recommended, City Council will make the final decision.

**MOTION:** A motion was made by Commissioner Nielsen to adjourn. The motion was seconded by Commissioner Brown and passed unanimously.

The meeting adjourned at 8:59 p.m.

This certifies that the regular meeting minutes of May 15, 2007 are a true and accurate copy as approved by the Planning Commission on July 17, 2007.

Signed: \_\_\_\_\_

Jeffery R. Leishman, Secretary